



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

GK
F. #2019R00187

*271 Cadman Plaza East
Brooklyn, New York 11201*

October 6, 2023

By ECF

The Honorable Brian M. Cogan
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Alexander Mayer
Criminal Docket No. 19-164 (BMC)

Dear Judge Cogan:

The government respectfully submits this letter in accordance with this Court's October 2, 2023 Order requesting a status update in the above-captioned matter.

I. Background

On October 23, 2020, Mayer waived indictment and consented to the filing of a superseding information charging him with one count of distribution of child pornography, in violation of 21 U.S.C. §§ 2252(a)(2) and 2252(b)(1) (Count One); and one count of possession of child pornography 21 U.S.C. §§ 2252(a)(2) and 2252(b)(1) (Count Two) (the "Superseding Information"). ECF Dkt. Nos. 39 & 40. On the same day, Mayer pleaded guilty before this Court to Court One of the Superseding Information. *Id.* On January 15, 2021, this Court sentenced the defendant to 90 months' imprisonment and ten years of supervised release. ECF Dkt. No. 53 (Judgment). The Court also imposed special conditions of supervised release, including, *inter alia*, provision which provides in relevant part:

The defendant shall not associate with children under the age of 18, unless a responsible adult is present, and he has prior approval from the Probation Department. Prior approval does not apply to contacts which are not known in advance by the defendant where children are accompanied by a parent or guardian or for incidental contacts in a public setting. Any such non-pre-approved contacts with children must be reported to the Probation Department as soon as practicable, but no later than 12 hours.

Judgment at 5, ¶ 3 (“Special Condition 3”). The defendant subsequently appealed the Court’s imposition of certain conditions of supervised release as well as the restitution payment ordered as to one victim.

On May 9, 2022, the Second Circuit affirmed the judgment of the Court except as to Special Condition 3 and vacated and remanded for further proceedings as to Special Condition 3 only. United States of America v. Alexander Mayer, 21-0204-cr (2d Cir. 2022). In particular, the Second Circuit instructed that, upon remand, the Court “should further develop the record” and “determine whether a less restrictive method of implementing the reporting required in Special Condition 3 can be identified,” noting that such determination “must adequately reflected the heightened constitutional concerns involved.” Id.

II. Proposed Modification to Special Condition 3

The government has conferred with the U.S. Probation Office and defense counsel, and the parties collectively agree that the proposed emphasized additional language will conform with the Second Circuit’s mandate:

The defendant shall not associate with children under the age of 18, unless a responsible adult is present, and he has prior approval from the Probation Department. Prior approval does not apply to contacts which are not known in advance by the defendant where children are accompanied by a parent or guardian or for incidental contacts in a public setting. Any such non-pre-approved contacts with children must be reported to the Probation Department as soon as practicable, but no later than 12 hours, ***except during the Sabbath and other religious holidays, in which case the defendant must report such contact immediately following the end of the holiday.***

